

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DOREEN M. VALENTINE,)	CASE NO. 4: 09 CV 1908
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
vs.)	
)	
MICHAEL J. ASTRUE,)	<u>MEMORANDUM OF OPINION</u>
Commissioner of Social Security,)	<u>AND ORDER</u>
)	[Resolving Doc. 14.]
Defendant.)	

This is an action for judicial review of the final administrative decision of the Commissioner of Social Security, denying Plaintiff's application for Supplemental Security Income. Pursuant to Local Rule 72.2(b), this matter was referred to Magistrate Judge McHargh for the preparation of a Report and Recommendation (R&R).

On January 26, 2010, Plaintiff filed a motion to expand the record, requesting that the court expand the record to include approximately eighteen pages of surgical records from December 2009. (Doc. 14). The Commissioner filed a response to Plaintiff's motion, arguing that the motion should be denied. On April 12, 2010, the Magistrate Judge issued an R&R, recommending that the motion be denied because the proffered evidence was not presented to either the ALJ or the Appeals Council and did not warrant remand pursuant to sentence six of 42 U.S.C. § 405(g). (Doc.16). No objections to the R&R have been filed.

The applicable district court standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections to the R&R. When objections are made, the district court reviews the case *de novo*. Fed. R. Civ. P. 72(b)(3) provides:

The district judge must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72 does not set forth a standard of review for reports to which no objections are made. The Advisory Committee Notes provide: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72 (Advisory Committee Notes to 1983 Amendment).

Further, the Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings."

The R&R is accepted. There is no error in Magistrate Judge's McHargh's determination that remand is not appropriate pursuant to sentence six of 42 U.S.C. § 405(g). Accordingly, for the reasons stated in the R&R, Plaintiff's motion to expand the record (Doc. 14) is denied.

IT IS SO ORDERED.

Date: May 19, 2010

/s/ John R. Adams
JOHN R. ADAMS
United States District Judge